

*Electronically Filed on  
June 14th, 2006*

JANET L. CHUBB, ESQ.  
Nevada State Bar No. 176  
LOUIS M. BUBALA III, ESQ.  
Nevada State Bar No. 8974  
JONES VARGAS  
100 W. Liberty St, 12<sup>th</sup> Floor  
P.O. Box 281  
Reno, NV 89504-0281  
Telephone: 775-786-5000  
Fax: 775-786-1177  
Email: [jlc@jonesvargas.com](mailto:jlc@jonesvargas.com)  
and [tbw@jonesvargas.com](mailto:tbw@jonesvargas.com)  
and [lbubala@jonesvargas.com](mailto:lbubala@jonesvargas.com)

Attorneys for JV Direct Lenders: Fertitta Enterprises, Inc.;  
Mojave Canyon, Inc.; A. William and Rane L. Ceglia;  
Robert A. and Sandra L. Cowman; Andrew and Ellen Dauscher;  
Drs. David and Bonny Enrico; David W. and Pamela K. Sexton;  
Evelyn Asher Sheerin, Trustee for the benefit of The Chris  
H. Sheerin (deceased) and Evelyn Asher Sheerin 1984 Trust  
Dated 5/31/84, Evelyn Asher Sherrin, Trustee of the  
Chris and Evelyn Sheerin 1990 Trust, Sheerins Inc.;  
Bruce Corum, Trustee of the Credit Shelter Trust, Juanita  
N. Carter, Charles B. Anderson Trust, Rita P. Anderson  
Trust, and Baltes Company ("JV Direct Lenders")

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:  
USA COMMERCIAL MORTGAGE COMPANY,  
Debtor.

USA CAPITAL REALTY ADVISORS, LLC,  
Debtor.

USA CAPITAL DIVERSIFIED TRUST DEED FUND,  
LLC,  
Debtor.

USA CAPITAL FIRST TRUST DEED FUND, LLC,  
Debtor.

USA SECURITIES, LLC,  
Debtor.

Affects:  
☒ All Debtors  
☐ USA Commercial Mortgage Company  
☐ USA Capital Realty Advisors, LLC  
☐ USA Capital Diversified Trust Deed Fund, LLC  
☐ USA Capital First Trust Deed Fund, LLC  
☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR  
Case No. BK-S-06-10726-LBR  
Case No. BK-S-06-10727-LBR  
Case No. BK-S-06-10728-LBR  
Case No. BK-S-06-10729-LBR

Chapter 11

**JV DIRECT LENDERS'  
CONDITIONAL OPPOSITION  
TO DEBTORS' MOTION FOR  
ORDER APPROVING CONTINUED  
USE OF CASH THROUGH  
JULY 29, 2006) PURSUANT TO  
SECOND REVISED BUDGET  
(AFFECTS ALL DEBTORS**

Hearing Date: June 21, 2006  
Hearing Time: 9:30 a.m.

JONES VARGAS  
100 W. Liberty Street, 12<sup>th</sup> Floor  
P.O. Box 281  
Reno, Nevada 89504-0281  
Tel: (775) 786-5000 Fax: (775) 786-1177

1 Jones Vargas represents numerous direct lenders who are named beneficiaries ("JV Direct  
 2 Lenders") of certain loans which were originated and serviced by Debtor USA Commercial  
 3 Mortgage Co. (hereinafter, "Debtor" or "USA Commercial"). Specifically, Jones Vargas  
 4 represents Fertitta Enterprises, Inc.; Mojave Canyon, Inc.; A. William and Ranee L. Ceglia;  
 5 Robert A. and Sandra L. Cowman; Andrew and Ellen Dauscher; Drs. David and Bonny Enrico;  
 6 David W. and Pamela K. Sexton; Evelyn Asher Sheerin, Trustee for the benefit of The Chris H. Sheerin  
 7 (deceased) and Evelyn Asher Sheerin 1984 Trust Dated 5/31/84, Evelyn Asher Sherrin, Trustee of the  
 8 Chris and Evelyn Sheerin 1990 Trust, Sheerins Inc.; Bruce Corum, Trustee of the Credit Shelter Trust  
 9 Juanita N. Carter, Charles B. Anderson Trust, Rita P. Anderson Trust, and Baltes Company. . The JV  
 10 Direct Lenders are among the roughly 3,600 direct lenders who provided funds for loans  
 11 originated and serviced by USA Commercial. The JV Direct Lenders hereby filed their  
 12 Opposition to Debtors' Motion for Order Approving Continued Use of Cash Through July 29,  
 13 2006 Pursuant to Second Revised Budget (Ct. Dkt. #407, Motion), based upon the attached  
 14 Memorandum of Points and Authorities, the pleadings and papers on file herein, and any other  
 15 material this Court may wish to consider.

16 The JV Direct Lenders do not oppose Debtors' continued use of cash as proposed in its  
 17 motion under three conditions:

18 1. In terms of the borrower payments received by Debtor USA Commercial as  
 19 servicing agent for loans funded by the JV Direct Lenders, Debtors' rights to use the borrower  
 20 payments are limited by one-percent annual servicing fee (prorated by one-twelfth for monthly  
 21 payments) that Debtors budgeted for ongoing collections and said payments to the JV Direct  
 22 Lenders are paid to them after the service fee is taken out. Ex. 1, Transcript from May 3, 2006,  
 23 hearing, Testimony of Thomas Allison at p. 48.

24 2. The Debtors do not attempt to surcharge the JV Direct Lenders for any fees above  
 25 the one-percent servicing fee.

1           3.       If the Court grants stay relief to allow the JV Direct Lenders to change the  
2 servicing agent, then Debtors will have no rights to collect fees from the borrower payments made  
3 after the stay relief and that otherwise would have been subject to a servicing fee from Debtor  
4 USA Commercial.

5           DATED this 14<sup>th</sup> day of June, 2006.

6                               JONES VARGAS

7  
8                               By:           //s// Janet L. Chubb            
                                  JANET L. CHUBB, ESQ.  
                                  LOUIS M. BUBALA, ESQ.

9                               Attorneys for JV Direct Lenders  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

JONES VARGAS  
100 W. Liberty Street, 12<sup>th</sup> Floor  
P.O. Box 281  
Reno, Nevada 89504-0281  
Tel: (775) 786-5000 Fax: (775) 786-1177

**CERTIFICATE OF SERVICE**

1. On June 14, 2006, I served the following document(s):

**JV DIRECT LENDERS' CONDITIONAL OPPOSITION TO DEBTORS' MOTION FOR  
ORDER APPROVING CONTINUED USE OF CASH THROUGH JULY 29, 2006  
PURSUANT TO SECOND REVISED BUDGET  
(AFFECTS ALL DEBTORS)**

2. I served the above-named document(s) by the following means to the persons as listed below:

■ a. **ECF System** (attach the "Notice of Electronic Filing" or list all persons and addresses):

- **FRANKLIN C. ADAMS**  
franklin.adams@bbklaw.com arthur.johnston@bbklaw.com
- **KELLY J. BRINKMAN**  
kbrinkman@gooldpatterson.com
- **THOMAS R BROOKSBANK**  
brooksbankt1@sbcglobal.net kaya1@sbcglobal.net
- **MATTHEW Q. CALLISTER**  
mqc@callister-reynolds.com maggie@callister-reynolds.com
- **CANDACE C CARLYON**  
ltreadway@sheacarlyon.com  
ccarlyon@sheacarlyon.com;bankruptcyfilings@sheacarlyon.com;rsmith@sheacarlyon.com
- **ROB CHARLES**  
rcharles@lrlaw.com cjordan@lrlaw.com
- **KEVIN B. CHRISTENSEN**  
kbchrislaw@aol.com
- **JEFFREY A. COGAN**  
jeffrey@jeffreycogan.com sarah@jeffreycogan.com
- **WILLIAM D COPE**  
cope\_guerra@yahoo.com cope\_guerra@yahoo.com
- **CICI CUNNINGHAM**  
bankruptcy@rocgd.com
- **LAUREL E. DAVIS**  
bklsclv@lionelsawyer.com  
ldavis@lionelsawyer.com;gbagley@lionelsawyer.com;ldavisesq@aol.com
- **THOMAS H. FELL**  
THF@GORDONSILVER.COM BANKRUPTCYNOTICES@GORDONSILVER.COM
- **SCOTT D. FLEMING**  
sfleming@halelane.com dbergsing@halelane.com,ecfvegas@halelane.com
- **GREGORY E GARMAN**  
bankruptcynotices@gordonsilver.com
- **GERALD M GORDON**  
bankruptcynotices@gordonsilver.com
- **TALITHA B. GRAY**  
tbg@gordonsilver.com bankruptcynotices@gordonsilver.com

JONES VARGAS  
 100 W. Liberty Street, 12<sup>th</sup> Floor  
 P.O. Box 281  
 Reno, Nevada 89504-0281  
 Tel: (775) 786-5000 Fax: (775) 786-1177

- 1 • **MARJORIE A. GUYMON**  
 bankruptcy@goldguylaw.com ddias@goldguylaw.com
- 2 • **EDWARD J. HANIGAN**  
 haniganlaw@earthlink.net haniganlaw1@earthlink.net
- 3 • **XANNA R. HARDMAN**  
 xanna.hardman@gmail.com
- 4 • **STEPHEN R HARRIS**  
 steve@renolaw.biz noticesbh&p@renolaw.biz
- 5 • **CHRISTOPHER D JAIME**  
 cjaime@waltherkey.com kbernhar@waltherkey.com
- 6 • **EVAN L. JAMES**  
 ejameslv@earthlink.net kbchrislaw@aol.com
- 7 • **ROBERT R. KINAS**  
 rkinas@swlaw.com  
 mstrand@swlaw.com;jlustig@swlaw.com;lholding@swlaw.com;imccord@swlaw.com
- 8 • **NILE LEATHAM**  
 nleatham@klnevada.com ckishi@klnevada.com;bankruptcy@klnevada.com
- 9 • **ROBERT C. LEPOME**  
 robert@robertlepome.com susan@robertlepome.com
- 10 • **REGINA M. MCCONNELL**  
 rmccconnell@kssattorneys.com
- 11 • **WILLIAM L. MCGIMSEY**  
 lawoffices601@lvcoxmail.com
- 12 • **RICHARD MCKNIGHT**  
 mcknightlaw@cox.net  
 gkopang@lawlasvegas.com;cburke@lawlasvegas.com,sforemaster@lawlasvegas.com
- 13 • **JEANETTE E. MCPHERSON**  
 jmcpherson@s-mlaw.com bkfilings@s-mlaw.com
- 14 • **SHAWN W MILLER**  
 bankruptcyfilings@sheacarlyon.com  
 smiller@sheacarlyon.com;aboehmer@sheacarlyon.com;ltreadway@sheacarlyon.com;rsmit  
 h@sheacarlyon.com
- 15 • **DAVID MINCIN**  
 mcknightlaw@cox.net  
 gkopang@lawlasvegas.com;dmincin@lawlasvegas.com,cburke@lawlasvegas.com,sforem  
 aster@lawlasvegas.com
- 16 • **JOHN F MURTHA**  
 jmurtha@woodburnandwedge.com
- 17 • **DONNA M. OSBORN**  
 jinouye@marquisaurbach.com  
 dosborn@marquisaurbach.com;tszostek@marquisaurbach.com;jcrowe@MarquisAurbach.  
 com;kgallegos@MarquisAurbach.com
- 18 • **DONALD T. POLEDNAK**  
 sandplegal@yahoo.com spbankruptcy@yahoo.com
- 19 • **PAUL C RAY**  
 info@johnpeterlee.com
- 20 • **SUSAN WILLIAMS SCANN**  
 sscann@deanerlaw.com palexander@deanerlaw.com

JONES VARGAS  
100 W. Liberty Street, 12<sup>th</sup> Floor  
P.O. Box 281  
Reno, Nevada 89504-0281  
Tel: (775) 786-5000 Fax: (775) 786-1177

- 1 • **LENARD E. SCHWARTZER**  
bkfilings@s-mlaw.com
- 2 • **SHLOMO S. SHERMAN**  
ssherman@sheacarlyon.com
- 3 aboehmer@sheacarlyon.com;bankruptcyfilings@sheacarlyon.com;ltreadway@sheacarlyon
- 4 .com;mmallet@sheacarlyon.com;rsmith@sheacarlyon.com
- 5 • **JEFFREY G. SLOANE**  
gjklepel@yahoo.com rmconnell@kssattorneys.com
- 6 • **PETER SUSI**  
cheryl@msmlaw.com msm@msmlaw.com
- 7 • **CARYN S. TIJSSELING**  
cst@beesleyandpeck.com aha@beesleyandpeck.com
- 8 • **JOAN C WRIGHT**  
jwright@allisonmackenzie.com jbrooks@allisonmackenzie.com
- 9 • **MATTHEW C. ZIRZOW**  
bankruptcynotices@gordonsilver.com

11 **9 b. United States mail, postage fully prepaid (list persons and addresses):**

12 Joshua D Brysk  
13 Law Offices of James G Schwartz  
14 7901 Stoneridge Drive, Suite 401  
Pleasanton, CA 94588

15 Annette W Jarvis  
16 Douglas M Monson  
17 Steven C Strong  
18 Ray Quinney & Nebeker P.C.  
36 South State Street, Suite 1400  
POBox 45385  
Salt Lake City, UT 84145-0385

19 Richard J. Mason  
20 130 Pinetree Lane  
21 Riverwoods, IL 60015

22 Erven T Nelson  
6060 W. Elton Avenue, Suite A  
23 Las Vegas, NV 89107

24 Erven T Nelson  
25 7401 W Charleston Blvd  
Las Vegas, NV 89117

26  
27  
28 Nicholas J Santoro  
400 S Fourth St 3rd Floor

JONES VARGAS  
100 W. Liberty Street, 12<sup>th</sup> Floor  
P.O. Box 281  
Reno, Nevada 89504-0281  
Tel: (775) 786-5000 Fax: (775) 786-1177

Las Vegas, NV 89101

Michael M. Schmahl  
McGuire Woods LLP  
77 W. Wacker Drive, Suite 4100  
Chicago, IL 60601

James G Schwartz  
7901 Stoneridge Dr #401  
Pleasanton, CA 94588

Patricia K. Smoots  
318 N Grove  
Oak Park, IL 60302

Bradley J Stevens  
Jennings, Strouss & Salmon, PLC  
201 East Washington Street, 11<sup>th</sup> Floor  
Phoenix, AZ 85004-2385

Thomas W Stilley  
1000 SW Broadway #1400  
Portland, OR 97205

Gregory J Walch  
400 S Fourth St 3rd Floor  
Las Vegas, NV 89101

William E Winfield  
POBox 9100  
Oxnard, CA 93031

Marion E. Wynne  
Wilkins, Bankester, Biles & Wynne, P.A.  
Post Office Box 1367  
Fairhope, AL 36533-1367

**9 c. Personal Service** (list persons and addresses):  
I personally delivered the document(s) to the persons at these addresses:

**9** For a party represented by an attorney, delivery was made by handing the document(s) to the attorney or by leaving the document(s) at the attorney's office with a clerk or other person in charge, or if no one is in charge by leaving the document(s) in a conspicuous place in the office.

**9** For a party, delivery was made by handing the document(s) to the party or by leaving the document(s) at the person's dwelling house or usual place of abode with someone of suitable age and discretion residing there.

**: d. By direct email (as opposed to through the ECF System)** (list persons and email addresses):

Based upon the written agreement of the parties to accept service by email or a court order, I caused the document(s) to be sent to the persons at the email addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

**9 e. By fax transmission** (list persons and fax numbers):

Based upon the written agreement of the parties to accept service by fax transmission or a court order, I faxed the document(s) to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission is attached.

**9 f. By messenger:**

I served the document(s) by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a messenger for service. (A declaration by the messenger must be attached to this Certificate of Service).

**I declare under penalty of perjury that the foregoing is true and correct.**

DATED this 14<sup>th</sup> day of June, 2006.

J. Englehart & Tawney Waldo  
Name

//s// Tawney Waldo & J. Englehart  
Signature

JONES VARGAS  
100 W. Liberty Street, 12<sup>th</sup> Floor  
P.O. Box 281  
Reno, Nevada 89504-0281  
Tel: (775) 786-5000 Fax: (775) 786-1177